

A. Nothing in this Order or the Plan discharges, ~~or releases~~ any person or entity from, or, precludes, or enjoins enforcement by any governmental unit against any person or entity of: (i) any liability owed by such person or entity pursuant to any applicable Environmental Law to any governmental unit that is not a Claim as defined in 11 U.S.C. sec. 101(5); (ii) any Claim against such person or entity pursuant to any applicable Environmental Law ~~by~~ any governmental unit that is beyond Section 1141(d)(1)(A)'s provision of a discharge for "debts that arose before the date of [] confirmation"; (iii) any liability owed by such person or entity pursuant to any applicable Environmental Law to any governmental unit on the part of ~~any such~~ entity as an owner or operator with respect to property owned or operated on or after the Effective Date (provided, however, that nothing in this clause (iii) shall be construed to preclude the assertion or defense by the Debtor, the Reorganized Debtor or the successors thereto of a discharge, release, preclusion, or injunction against enforcement of any Claim with respect to such property for (a) response costs, oversight costs or other monetary costs expended by or for a governmental unit prior to the Confirmation Date pursuant to any applicable Environmental Law, or (b) fines or penalties assessed or owing to a governmental unit for any days of violation that occur before the Confirmation Date for a violation of any applicable Environmental Law (but not for days of violation, if any, that occur after the Confirmation Date)); or (iv) any liability owed by such person or entity (other than the Debtor, Reorganized Debtor, or the successors thereto) pursuant to any applicable Environmental Law to any governmental unit ~~on the part of any entity other than the Debtor, Reorganized Debtor, or the successors thereto;~~ provided, however, that, for the avoidance of doubt, the Debtor, the Reorganized Debtor or the successors thereto reserve any and all available defenses against any governmental unit under applicable non-bankruptcy law in any action or proceeding by ~~any such~~ governmental unit.

Environmental Law means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. sec. 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. sec. 5101 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. sec. 6901 et seq., the Clean Water Act, 33 U.S.C. sec. 1251 et seq., the Clean Air Act, 42 U.S.C. sec. 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. sec. 2601 et seq., the Atomic Energy Act, 42 U.S.C. sec. 2011 et seq., the Safe Drinking Water Act, 42 U.S.C. sec. 300f et seq., the Refuse Act, 33 U.S.C. sec. 407 and the Oil Pollution Act of 1990, 33 U.S.C. sec. 2701 et seq., Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. sec. 136., Emergency Planning and Community Right-To-Know Act, 42 U.S.C. sec. 11001 et seq., Surface Mining Control and Reclamation Act, 30 U.S.C. sec. 1201 et seq., Coastal Zone Management Act, 16 U.S.C. sec. 1451 et seq., Endangered Species Act, 16 U.S.C. sec. 1531 et seq., National Environmental Policy Act, 42 U.S.C. sec. 4321 et seq., Marine Protection, Research and Sanctuary Act, 33 U.S.C. sec. 1401 et. seq., Rivers and Harbors Act, 33 U.S.C. sec. 401 et. seq., Noise Control Act, 42 U.S.C. sec. 4901 et seq., Park System Resource Protection Act, 16 U.S.C. sec. 19jj et seq., Residential Lead Based Paint Hazard Reduction Act, 42. U.S.C. sec. 4851 et seq., Outer Continental Shelf Lands Act, 43 U.S.C. sec. 1301 et seq., Pollution Prevention Act,

Formatted: DocId, Line spacing: single, Tab stops: Not at 3.25" + 6.5"

42 U.S.C. sec. 13101 et seq., -and the regulations promulgated pursuant thereto, and all analogous state or local statutes and regulations.

- B. Other than as stated in the proviso at the end of this paragraph, nothing in the Plan or the Confirmation Order shall adversely affect in any way the rights and remedies of the United States in the action *United States v. Meadwestvaco Corporation*, #1:00-cv-2602-MJG, District of Maryland, (“D. MD Action”). Nor shall anything in the Plan or the Confirmation Order divest or limit the jurisdiction of the United States District Court for the District of Maryland over the D. MD Action. Upon the Effective Date of the Plan, the D. MD Action shall survive the bankruptcy case and may be adjudicated by the United States District Court for the District of Maryland; *provided, however*, that nothing in this paragraph shall be construed to be contrary to Section 1141(d)(1)(A)’s provision of a discharge for “debts that arose before the date of [] confirmation” and further provided that Section A above shall apply to the D. MD Action and the Luke Mill.
- C. Nothing in the Plan or the Confirmation Order shall divest or limit the jurisdiction of the District Court of the Eastern District of Wisconsin (the “Wisconsin District Court”) over the pending action, *United States of the America and the State of Wisconsin v. NCR Corporation*, et al, 10-C-910 (the “NCR Action”); *provided, however*, that the amount of (a) any judgment that has been entered and become final (including after applicable appellate review) against any of the Debtors in the ~~above referenced a~~NCR Action with respect to proofs of claim filed in the Chapter 11 Cases or (b) any settlement approved by the Bankruptcy Court and/or the Wisconsin District Court shall, in either case, be treated and paid solely as an allowed General Unsecured Claim-in accordance with the Plan.
- D. No forum-selection or choice-of-law provision in the Plan or Confirmation Order shall apply to any enforcement action brought by any governmental unit if that enforcement action is within subparagraphs (i), (ii), (iii), or (iv) in Paragraph A hereof; *provided, however*, that, notwithstanding the foregoing, the Bankruptcy Court retains jurisdiction (unless it abstains) to interpret and enforce this Confirmation Order and the Plan, and determine whether such enforcement action referenced in this sentence is within subparagraphs (i), (ii), (iii), or (iv) in Paragraph A hereof.

Formatted: DocId, Line spacing: single, Tab stops: Not at 3.25" + 6.5"